

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231*AB*

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/422,398	10/21/99	SMITH	B 88405..99R077

THOMAS R FITZGERALD  
JAECKLE FLEISHMANN & MUGEL LLP  
39 STATE STREET  
ROCHESTER NY 14614

MMC1/0926

EXAMINER

NGUYEN, H

ART UNIT	PAPER NUMBER
	2851

DATE MAILED: 09/26/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Office Action Summary**

Application No. <b>09/422,398</b>	Applicant(s) <b>Smith</b>
Examiner <b>Nguyen, Hung Henry</b>	Group Art Unit <b>2851</b>



Responsive to communication(s) filed on Oct 21, 1999

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**

Claim(s) 1-56 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims 1-56 are subject to restriction or election requirement.

**Application Papers**

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Application/Control Number: 09/422,398

Page 2

Art Unit: 2851

## **DETAILED ACTION**

### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-15, drawn to masking aperture, classified in class 430, subclass 5+.
  - II. Claims 22-34 and 55-56, drawn to method for controlling on and off axis illumination of a photomask, classified in class 355, subclass 77.
  - III. Claims 35-54, drawn to an illumination system, classified in class 355, subclass 67.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I, III and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed could be utilized for electron exposure in a process for forming multi exposure layers on a photosensitizer coated substrate.
3. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has ~~utility by itself or in other combinations (MPEP § 806.05(c))~~. In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the

Art Unit: 2851

combination is independently functional and deemed to be useful to expose an image formed on a reticle onto a substrate. The subcombination has separate utility such as controlling the projected light distribution and can be used in a projector..

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

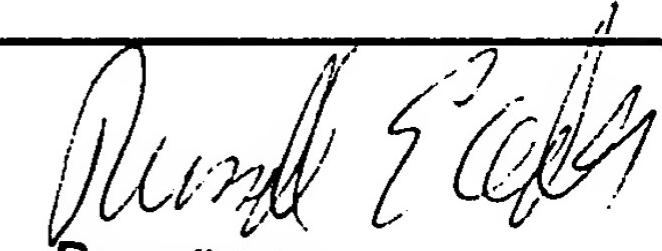
5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

7. Any inquiry concerning this application or earlier communications from the examiner should be directed to Henry Nguyen whose telephone number is (703) 305-6462.

Any inquiry of a general nature or relating the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

hvn 9/23/2000



Russell Adams  
Primary Examiner